

CIVIL CASE NO. 3:09cv01

Defendant.

The Magistrate Judge filed a Memorandum and Recommendation in

which he recommended denying the motion to amend and granting in part the Defendant's motion for judgment on the pleadings.¹ The parties were advised that any objections to the Magistrate Judge's conclusions and recommendations were to be filed in writing within ten days of service of the Recommendation and that failure to file objections to the Memorandum and Recommendation would preclude the parties from raising any objection on appeal. [Doc. 15 at 22]. The period within which to file objections expired on May 1, 2009 and no objections to the Memorandum and Recommendation have been filed.

The Court has considered the motions, the responses thereto and the Magistrate Judge's Memorandum and Recommendation. The Court concludes that the Magistrate Judge's recommendation is supported by the facts, the record and the law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation.

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion to Amend [Doc. 10] is hereby **DENIED**.

IT IS FURTHER ORDERED that the Defendant's Motion for

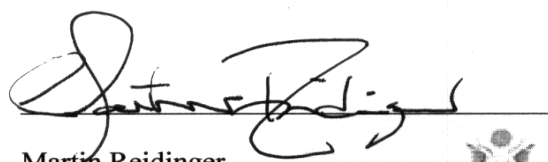
¹The Magistrate Judge recommended that Count IV of the Complaint be dismissed on the alternate ground of failure to state a claim upon which relief may be granted. The Plaintiff conceded this by failing to object to the Memorandum and Recommendation.

Judgment on the Pleadings [Doc. 8] as to Counts I, II and III is hereby **GRANTED** and Counts I, II and III of the Complaint are hereby **DISMISSED WITH PREJUDICE** but only to the extent that these claims are based on the Defendant's credit reporting activity and judgment thereon will be entered at the conclusion of the action. To the extent that the claims asserted in Counts I, II and III are based on any other grounds, the Defendant's Motion for Judgment on the Pleadings is **DENIED**, and the Plaintiff is allowed to proceed thereon;

IT IS FURTHER ORDERED that the Defendant's Motion for Judgment on the Pleadings [Doc. 8] as to Count IV is hereby **DENIED** but Defendant's Motion to Dismiss Count IV for failure to state a claim is **GRANTED** and Count IV is thus hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that on or before fourteen days of entry of this Order, the parties shall conduct an initial attorneys' conference and shall submit to the Court a Certificate of Initial Attorneys' Conference and proposed Pretrial Order and Case Management Plan within five days of such conference.

Signed: May 5, 2009


Martin Reidinger
United States District Judge

